

### REMARKS

This responds to the Office Action mailed on December 12, 2008.

Claims 1-6, 8, 9, 11, 13, 15, 23, 27, 29, and 30 are amended and claim 26 is canceled. As a result, claims 1-25 and 27-30 are now pending in this application.

#### § 101 Rejection of the Claims

Claims 1-26 and 30 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. In particular, the Office Action noted that “[c]laim 1 recites a system to process data transaction,” but “[s]uch a system is not embedded in processor or memory to perform the steps and the modules as claimed” (see Office Action mailed on December 12, 2009 at page 2). In view of the rejection, the Applicants have amended independent claim 1 to recite, in part, a “processor-implemented computer interface module,” a “processor-implemented data store interface module,” and a “processor-implemented data access layer.”

The Office Action further notes that independent claim 11 is rejected because “the claim does not positively recite the other statutory class to which it is tied, for example by identifying the apparatus that accomplishes the method steps” (see Office Action mailed on December 12, 2009 at page 3). The Applicants respectfully traverse because, in part, claim 11 recites “data transactions in a *data store*,” “receiving a data transaction request from at least one requesting *computer*,” and “presenting the plurality of results to the at least one requesting *computer*” (emphasis added). Thus, ample support is found in the elements claimed that claim 11 is tied to a particular machine or apparatus. Nonetheless, the Applicants have amended independent claim 11 to recite “using one or more processors to perform at least a portion of one or more of the following acts” in order to further tie the method claim to a particular machine or apparatus.

The Office Action also rejected claim 30 because “carrier wave signals are not a manufacture within the meaning of 101, on which the program is still unavailable to the processor” (see Office Action mailed on December 12, 2008 at page 3). In turn, Applicants have removed the reference to a “carrier wave signal” from paragraph 90 of the specification. Accordingly, in view of the amendments, the Applicants submit that the claimed invention is

directed to statutory subject matter and request the 35 U.S.C. §101 rejection to be withdrawn for claims 1-26 and 30.

§ 103 Rejection of the Claims

Claims 1-2, 5-12, and 15-30 were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,920,870 to Briscoe et al. (hereinafter “Briscoe”) in view of U.S. Patent No. 5,978,577 to Rierden et al. (hereinafter “Rierden”). Claims 3-4 and 13-14 were rejected under 35 U.S.C. § 103(a) as being obvious over Briscoe in view of Rierden and further in view of U.S. Patent No. 7,403,946 to Taylor. As will be fully explained below, the Applicants respectfully assert that Briscoe and Rierden fail to disclose and teach the subject matter for which they are relied upon, and independent claims 1, 11, 27, and 30, and all dependent claims are not obvious over Briscoe and Rierden.

Although the Applicants believe that the original pending claims are defined over the art of record, the Applicants have amended independent claims 1, 11, 27, and 30 to incorporate the recitations of dependent claim 26. In particular, the Applicants have amended independent claim 1 to further clarify that, in part, the data access layer also “split[s] the data transaction request into a plurality of data transaction requests to the different databases.” Similarly, independent claims 11, 27, and 30 have been amended to clarify, in part, that “a plurality of different databases from the plurality of databases” is identified and the data transaction request is split “into a plurality of data transaction requests.” At least a part of the “plurality of data transaction requests” is communicated to “at least one database of the plurality of different databases identified.”

In support of the obviousness rejections of dependent claim 26, the Office Action notes that “Briscoe and Rierden disclose substantially the invention as claimed” and therefore, “claims 15-29 are rejected under the same rationale as applied to claims 1-2 and 6-12 above” (see Office Action mailed on December 12, 2008 at page 5). Claims 1-2 and 6-12 do not recite “split[ing] the data transaction request into a plurality of data transaction requests,” as recited in amended independent claims 1, 11, 27, and 30 and formerly dependent claim 26. Since dependent claim 26 is unique, the Applicants assert that the Office Action cannot reject this dependent claim (and also the amended independent claims) based on the rationale applied to claims 1-2 and 6-12.

Furthermore, Briscoe merely discloses a “multi-layer abstraction bucket mechanism” (see Abstract) and does not disclose anywhere “split[ing] the data transaction request into a plurality of data transaction requests,” as recited in amended independent claims 1, 11, 27, and 30. In fact, the term “split” is not disclosed anywhere in Briscoe.

On the other hand, Rierden at Figure 5 does disclose “three servers and a sample of records contained on each” (col. 27, lines 64-65). For example, “Server A contains two customer records (one for Joe Smith and one for Red Purcell) ... Server B contains two more customer records as well as the same product and promotions records as contained on Server A” (col. 28, lines 6-11). However, a close reading of Rierden reveals that “an XREF Server would be made to determine the particular server containing the record for the proper Joe Smith” (col. 28, lines 47-49). That is, “the result set from the XREF Server would specify that the desired record is contained on Server A” (col. 28, lines 50-51). Thereafter, the “command stream generated by the DDS is transmitted to Server A which executes the commands and returns the record for Joe Smith ... to the requesting client” (col. 28, lines 57-61). As a result, Rierden merely discloses determining one server from many servers containing a record and transmitting the command stream to that one server to retrieve the record. Since Rierden only discloses the transmission of a command stream to just one determined server, Rierden does not disclose “split[ing] the data transaction request into a plurality of data transaction requests,” as recited in amended independent claims 1, 11, 27, and 30, and disclose the “plurality of data transaction requests” are communicated to “at least one database of the plurality of different databases identified,” as recited in amended independent claims 11, 27, and 30.

Applicants submit that for at least the reasons set forth above, Briscoe in view of Rierden does not disclose each and every feature recited in amended independent claims 1, 11, 27, and 30. Claims 2-10, 12-25, and 28-29, each of which depends directly or indirectly from independent claims 1, 11, 27, or 30, are likewise patentable under 35 U.S.C. §103(a) over Briscoe in view of Rierden or Briscoe in view of Rierden and Taylor for at least the same reasons set forth for independent claims 1, 11, 27, and 30. Accordingly, the Applicants respectfully request the Examiner to withdraw the 35 U.S.C. § 103(a) objections for claims 1-25 and 27-30.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' representative at (408) 278-4047 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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Date 3/12/09

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 12, 2009.

Name

CHRIS BARTZ

Signature

CRB